

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

BART A. KENNEDY

PLAINTIFF

V.

3:14CV00287 DPM/PSH

LARRY MILLS, Sheriff,
Poinsett County Jail

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge D.P. Marshall Jr. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. Your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations.

Mail your objections to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

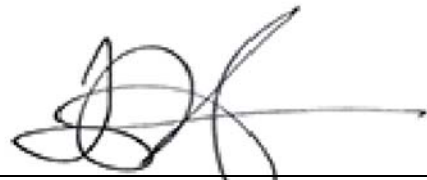
Plaintiff Bart A. Kennedy filed a *pro se* complaint on December 8, 2014. On July 10, 2015, after mail sent to plaintiff at his address of record was returned as undeliverable, the Court entered an order directing plaintiff to file a notice of his current mailing address within 30 days, and warning him that his failure to do so would result in the recommended dismissal of his complaint (docket entry 16).

More than 30 days have passed, and plaintiff has not filed a notice of his current mailing address or otherwise responded to the order. Under these circumstances, the Court concludes that plaintiff's complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2), and failure to respond to the Court's order. *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion.).

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint be DISMISSED WITHOUT PREJUDICE for failure to comply with Local Rule 5.5(c)(2), and failure to respond to the Court's order.
2. The Court certify that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 13th day of August, 2015.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

UNITED STATES MAGISTRATE JUDGE